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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Review of the Commission's) MM Docket No. 91-221
Regulations Governing Television)
Broadcasting)
)
Television Satellite Stations) MM Docket No. 87-8
Review of Policy and Rules)

TO: The Commission

COMMENTS OF PRESS BROADCASTING COMPANY, INC.

1. Press Broadcasting Company, Inc. ("Press") hereby submits its Comments in response to the Second Further Notice of Proposed Rulemaking, FCC 96-438, released November 7, 1996, in the above-captioned proceedings. Press is the licensee of Station WKCF(TV), Clermont, Florida (as well as several radio stations in New Jersey).

2. With respect to the general question of limitations on local ownership of television stations, Press opposes any comprehensive relaxation of the limitations currently in place. The number of participants in the local broadcast television marketplace is already extremely limited, and it would ill-serve the well-established goal of increasing diversity of programming to permit any substantial decrease in the number of competitors in any given local market. Press believes that free, over-the-air television operators have for decades been, and will likely remain for years to come, the primary source of news and

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information for a majority of the American public. This is especially true insofar as matters of local concern are involved -- while Press acknowledges the existence of such national news services as CNN, the fact is that such services do not, and cannot be expected to, provide local coverage of local importance to local audiences.

3. Thus, the availability of a maximum number of separate and competing local broadcast television voices remains vitally important. Press urges the Commission not to take any steps which would reduce that number.

4. As an experienced broadcast operator, however, Press is not so naive as to propose an absolute prohibition against any common local ownership or control of television stations. Experience teaches that, invariably, exceptional situations will present themselves which will require exceptional solutions. Because of that, Press suggests that, while the Commission should not relax its local ownership rules, it may be appropriate for the Commission to develop and announce specific policies relating to possible waivers of those rules. In that connection, Press offers the following observations.

5. First, as the Commission is aware, there are undeniable differences between UHF and VHF stations. UHF stations tend in many instances to have signals which are somewhat inferior to their VHF competitors. And, since most UHF stations commenced operation after most VHF stations, UHF stations tend not to have

the valuable network affiliations which went to the VHF licensees who arrived first in the market. And, as non-network stations with potentially inferior signals, UHF stations tend to have lower audience ratings and, therefore, lower revenues (and, concomitantly, greater failure rates). These observations are not universally true: there are some UHF stations with signals equal to their VHF competitors; there are some UHF stations which have network affiliations; there are some UHF stations which, with or without network affiliations, have shown themselves to be successful, economically viable (if not dominant) competitors in the marketplace. But such situations tend to be the exception, rather than the rule (unless, of course, all the stations in the market are UHF's).

6. Thus, it is appropriate for the Commission to distinguish, at least in some circumstances, between UHF stations and VHF stations. ^{1/} Press suggests that, while common ownership or control of two local television stations should be prohibited, waiver of that prohibition should be available where both of the stations involved are UHF ^{2/} and where neither of

^{1/} Press notes that the legislative history of the Telecommunications Act of 1996 reflects Congress's recognition of the validity of that distinction. See S. Conf. Rep. 104-230, 104th Cong. 2d Sess. 163 (1996) ("[i]t is the intention of the conferees that, if the Commission revises the multiple ownership rules, it shall permit VHF-VHF combinations only in compelling circumstances.").

^{2/} Press cannot conceive of a situation where two VHF stations can or should be allowed to be commonly owned or controlled.
(continued...)

the stations individually (nor both stations taken together) constitute a dominant competitor in the local market, and where no more than one of the stations is an affiliate of one of the major, established networks. For purposes of such a policy, market domination may be determined by reference to audience and television revenue data. For example, a station (or a combination of stations) with no more than a particular benchmark market share may be entitled to a waiver of the duopoly prohibition.

7. And, since joint operation can have a significant beneficial effect on the financial and competitive viability of a station, Press also suggests that any such waivers be issued for limited periods, say, three years. The waivers could be extended at the conclusion of each waiver term, but only upon an affirmative showing that the ownership combination is still warranted according to the available marketplace audience and revenue data. In other words, if a combination has been able to avail itself of the advantages of common ownership to propel two previously non-competitive stations into a position of market dominance, the licensee should be required to explain to the Commission why any continuation of the waiver is necessary or

^{2/} (...continued)

Similarly, Press believes it extremely unlikely that even VHF-UHF common ownership can be justified in view of the differences between VHF and UHF operations.

appropriate.^{3/} Press does not wish to unnecessarily discourage successful competitors; however, Press does not believe that it is appropriate to allow a market participant to attain market dominance through a rule waiver and thereafter to retain that waiver (and the advantages made available by it) indefinitely.

8. Second, with respect to common ownership or control situations already in place, Press recommends that such situations be made subject to a definite "sunset" provision which will assure that, as of a date certain (ideally not more than one year after the adoption of local ownership limits), all stations would have to be in compliance with the new rules, whether through strict compliance or pursuant to an express waiver based on those rules. It makes little sense to establish standards theoretically applicable to all market participants if some of those participants will be automatically exempt from them for the foreseeable future. One of the goals of the adoption of rules is to provide a level playing field on which all competitors may compete equally. Unnecessary extension of pre-existing situations is plainly inconsistent with that goal.


9. Diversity of programming and informational choices is a linchpin not only of our broadcast system, but also of our chosen system of government. Press firmly believes that preserving

^{3/} Similarly, where a combination is proposed to be sold prior to the expiration of its waiver period, the proposed assignee or transferee should be required to demonstrate the continued propriety of common ownership.

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maximum diversity is and should be an extraordinarily high priority for the Commission. Press urges the Commission to be guided by that priority in its resolution of this proceeding.

Respectfully submitted,


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February 7, 1997